

DOWD, J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Broadcast Music, Inc., et al.,	)	CASE NO. 5:13 CV 1768
	)	
Plaintiffs,	)	
	)	<u>OPINION AND ORDER</u>
v.	)	
	)	
Pub Acquisition, LLC d/b/a Mug's Brew Pub	)	
& Sports Grill, et al.,	)	
	)	
Defendants.	)	
	)	

The Court referred this case to Magistrate Judge George Limbert for general pretrial supervision. Plaintiffs allege in their complaint that defendants regularly featured performances of live and recorded copyrighted music owned by plaintiffs without obtaining a license to perform the music.

While under Magistrate Judge Limbert's supervision, plaintiffs moved for an entry of default against defendants, which was entered by the Clerk. Subsequently, plaintiffs moved for default judgment (ECF 12) against all defendants. Defendants did not respond to plaintiffs' motion for default judgment.

Plaintiffs' motion seeks entry of default judgment against defendant Pub Acquisition LLC doing business as Mug's Brew Pub & Sports Grill, and against defendant Vincent A. Fazio, Jr. (collectively "Defendants"), ordering that:

(a) Defendants Pub Acquisition, LLC d/b/a Mug's Brew Pub & Sports Grill and Vincent A. Fazio, Jr., their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the

(5:13 cv 1768)

copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. § 502;

(b) Defendants Pub Acquisition, LLC d/b/a Mug's Brew Pub & Sports Grill and Vincent A. Fazio, Jr. pay statutory damages in the amount of Twenty-Four Thousand Dollars (\$24,000.00), which represents an award of Four Thousand Dollars (\$4,000.00) for each of the six (6) acts of infringement, pursuant to 17 U.S.C. § 504(c);

(c) Defendants Pub Acquisition, LLC d/b/a Mug's Brew Pub & Sports Grill and Vincent A. Fazio, Jr. pay Plaintiffs' costs, including reasonable attorneys' fees, in the amount of \$3,300.00, pursuant to 17 U.S.C. § 505; and

(d) Defendants Pub Acquisition, LLC d/b/a Mug's Brew Pub & Sports Grill and Vincent A. Fazio, Jr. pay interest on these awards pursuant to 28 U.S.C. § 1961.

*See* ECF 12-1.

In support of their motion, plaintiffs submit affidavits and documentation of infringement, licensing fees, and attorney fees and costs.

Magistrate Judge Limbert issued an Amended Report and Recommendation recommending that the relief sought by plaintiffs in their motion for default judgment be granted and that a hearing is not necessary in order to award relief. ECF 14. A copy of Magistrate Judge Limbert's Amended Report and Recommendation was mailed to defendants at their address of record on June 5, 2014.

Under the relevant statute:

[T] magistrate judge shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to

(5:13 CV 1768)

which objection is made.

28 U.S.C. § 636(b)(1)(C).

No objections have been filed to Magistrate Judge Limbert's Amended Report and Recommendation. The failure to file written objections to a Magistrate Judge's report and recommendation constitutes a waiver of a *de novo* determination by the district court of an issue covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed Magistrate Judge Limbert's thorough and well-reasoned Amended Report and Recommendation (ECF 14) and adopts the same. Accordingly, the plaintiffs' motion for default judgment against defendant Pub Acquisition LLC dba Mug's Brew Pub & Sports Grill, and against defendant Vincent A. Fazio Jr., is GRANTED.

A Judgment Entry will be separately published.

The Clerk is requested to mail a copy of this Opinion and Order to defendants at their address of record.

IT IS SO ORDERED.

July 2, 2014  
Date

s/ David D. Dowd, Jr.  
David D. Dowd, Jr.  
U.S. District Judge